

31A-23a-405 Insurer liability.

- (1) As used in this section, "insurer" includes bail bond surety companies as defined in Section 31A-35-102.
- (2) There is a rebuttable presumption that every insurer is bound by any act of its appointed licensee performed in this state that is within the scope of the appointed licensee's actual (express or implied) or apparent authority, until the insurer has canceled the appointed licensee's appointment and has made reasonable efforts to recover from the appointed licensee its policy forms and other indicia of agency. Reasonable efforts include a formal demand in writing for return of the indicia, and notice to the commissioner if the appointed licensee does not promptly comply with the demand. This Subsection (2) neither waives any common law defense available to insurers, nor precludes the insured from seeking redress against the appointed licensee individually or jointly against the insurer and licensee.
- (3) When a licensee under this chapter with authority to bind more than one insurer on a particular risk agrees to bind coverage on a particular risk, but fails to outwardly indicate the insurer with which the risk is placed, and before the risk is placed with a particular insurer a loss occurs, if there is no conclusive admissible evidence indicating the insurer with which the licensee exercised his binding authority, a court may equitably apportion the loss among all insurers with which the licensee had binding authority as to the particular type of risk.

Renumbered and Amended by Chapter 298, 2003 General Session